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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/565,439

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Marco Ghini

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23117

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EXAMINER

BYRD, LATRICE CHENELL

ART UNIT

PAPER NUMBER

3782

MAIL DATE

DELIVERY MODE

01/22/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/565,439

**Applicant(s)**

GHINI ET AL.

**Examiner**

LATRICE BYRD

**Art Unit**

3782

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-70 is/are pending in the application.
- 4a) Of the above claim(s) 1-35 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 36-70 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 1/20/06 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF/86)  
Paper No(s)/Mail Date 1/20/06 & 8/11/06
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_

## **DETAILED ACTION**

### ***Specification***

The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

#### **Arrangement of the Specification**

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
- (f) BACKGROUND OF THE INVENTION.
  - (1) Field of the Invention.
  - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.
- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

The spacing of the lines of the specification is such as to make reading difficult. New application papers with lines 1½ or double spaced on good quality paper are required.

***Claim Objections***

1. Claim 61 objected to because of the following informalities: Makes reference to previous claim that has been cancelled, "when appended to claim 24". Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 67-69 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.
4. Claim 67 recites "first creases" and "second creases" as well as "a first peripheral region," "a second peripheral region," and "a middle region" of said first zone. The specification or drawings have not identified these creases and regions claimed. For the purposes of examination, the creases will be examined as the plurality of creases identified by applicant as 30 in the region being the area therein.

5. Claim 68 recites the limitations "a first strip" and "a second strip" in lines 2-3. For the purpose of examination, said first and second strip will be examined as the first (22) and second (24) zones.
6. Claim 69 recites "a further longitudinal panel" and "a further longitudinal strip" in lines 1-2. For the purpose of examination, the longitudinal panel will be examined as 45 and the longitudinal strip as 26.
7. Claims 67-69 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 67 recites the limitation "first creases" and "a first peripheral region" in line 2, "second creases" and "a second peripheral region" in line 3, and "a middle region". Claim 68 recites the limitations "a first strip" and "a second strip" in lines 2-3. Claim 69 recites "a further longitudinal panel" and "a further longitudinal strip" in lines 1-2. There is insufficient antecedent basis for these limitations in the claims.

***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 36-45 and 52-53 are rejected under 35 U.S.C. 102(b) as being anticipated by Rosenberg (USPN 3,708,108).

10. In regards to claims 36-45, Rosenberg discloses a container delimited by a wall arrangement (10-13) comprising shaped wall arrangement that protrudes towards the exterior of said container comprising a stiffening element arranged to stiffen said shaped wall arrangement, wherein stiffening element (14-17) comprises a stiffening wall (17) distanced from said wall arrangement and further comprising an anchoring element arranged to anchor said stiffening wall to supporting wall adjacent to said shaped wall arrangement wherein anchoring element comprises an anchoring wall (18). Rosenberg discloses all limitations claimed regarding said stiffening wall and said anchoring wall.
11. In regards claims 52-53, Rosenberg discloses a container wherein said shaped arrangement comprises a pair of facing side walls (11,13) interposed between a substantially flat front wall (12) and a substantially flat rear wall (14) arranged of a stiff packet with a hinged lid (70-74) for cigarettes

***Claim Rejections - 35 USC § 103***

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claims 46-49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rosenberg (USPN 3,708,108) in view of Campbell (USPN 5,097,948).
14. In regards to claims 46-49, Rosenberg discloses the claimed invention except said wall arrangement does not comprise a convex wall or two flat intersecting walls.

Campbell illustrates a container wherein the wall arrangement comprises a convex wall (Fig. 2) further comprising a portion of semicylindrical surface and first and second flat walls intersecting (Fig. 1) as claimed. It would have been obvious to one of ordinary skill in the art at the time of the invention to have included convex and intersecting walls in the wall arrangement of Rosenberg in order to create protruding side edges to prevent risk of damage to the cigarettes.

15. Claims 50-51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rosenberg (USPN 3,708,108) in view of Draghetti (USPN 6,484,930).

16. In regards to claim 50, Rosenberg discloses the claimed invention except said shaped wall arrangement comprising a substantially flat intermediate portion and convex peripheral portions. Draghetti teaches a substantially flat intermediate portion (8) and convex peripheral portion (19). It would have been obvious to one of ordinary skill in the art at the time of invention to have included a convex peripheral portion about a substantially flat portion in order to create a smooth corner to avoid causing rapid wear of clothing fabrics or similar with which it may come in contact (column 2, lines 6-7).

17. In regards to claim 51, Rosenberg discloses the claimed invention except the shaped wall arrangement is not formed of a first convex portion with convexity turned towards the inside of said container and a second concave portion with concavity turned towards the inside of said container. It would have been an obvious matter of design choice to form the wall arrangement of a first convex portion with convexity turned towards the inside of said container and a second concave portion with concavity turned

towards the inside of said container, since applicant has not disclosed that forming the wall arrangement of a first convex portion with convexity turned towards the inside of said container and a second concave portion with concavity turned towards the inside of said container solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with a substantially flat wall arrangement.

18. Claims 54-70 are rejected under 35 U.S.C. 103(a) as being unpatentable over Draghetti (USPN 6,484,930) in view of Schoch et al. (USPN 6,370,846).

19. In regards to claims 54, 60-62, and 67-69 Draghetti discloses a foldable blank for forming a container, comprising a first greater panel (52), a longitudinal panel subdivided into a first zone (55) and second zone (61). Draghetti fails to disclose a longitudinal strip. Schoch teaches a longitudinal strip (19) that has a longitudinal side common to a longitudinal panel (16). It would have been obvious to one of ordinary skill in the art at the time of the invention to have included a longitudinal strip (19) of Schoch to the longitudinal panel of Draghetti in order to provide material to adhere to the side panel joining the two for forming the package.

20. In regards to claim 55, Draghetti discloses the claimed invention except for wherein the transverse extent of said first zone (52) is greater than a further transverse extent of said second zone (61). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have made the transverse extent of said first zone greater than the second zone, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233. Please



note that in the instant application applicant has not disclosed any criticality for the claimed limitations.

21. In regards to claims 56 and 57, Draghetti discloses a foldable blank wherein said first greater panel (52) is interposed between a first transverse panel (10') and a second transverse panel (11') lying on opposite sides of said first greater panel parallel to said axis by a quantity substantially corresponding to said further transverse extent of said second zone (61).

22. In regards to claims 58 and 59, Draghetti discloses a foldable blank wherein said longitudinal panel comprises a first longitudinal crease (39,40) that delimits said first zone (56) in relation to said second zone (61) wherein said first zone extends parallel to said first longitudinal crease for a length substantially the same as further length of said greater panel along said first longitudinal crease.

23. In regards to claims 63-66, Draghetti discloses a foldable box wherein said first zone is provided with a cutting line along line (47) that extends through said first and second zones in a tilted direction having joints. Further, the first zone (56) is provided with a plurality of creases to take on a concave configuration (column 2, lines 22-26).

24. In regards to claim 70, Draghetti discloses a folding blank defining a die-cut cardboard for packets for cigarettes (column 1, lines 6-9).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Brown et al. (US Des. 438,106) discloses cigarette package with

a hinged lid. Rous (USPN 3,986,608 and USPN 3,722,783) both disclose a shaped wall arrangement comprising a stiffening wall and anchoring wall. Any inquiry concerning this communication or earlier communications from the examiner should be directed to LATRICE BYRD whose telephone number is (571)270-5703. The examiner can normally be reached on Mon-Thu 7:30am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on 571-272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/LATRICE BYRD/  
Examiner, Art Unit 3782

/Nathan J. Newhouse/  
Supervisory Patent Examiner, Art Unit 3782

